

REMARKS

Claims 1-34 are pending in the current application, with claims 24 and 34 being withdrawn. Claims 1-23, 25-27, and 32 currently stand rejected, and claims 1, 4-6, and 18 have been amended. The Examiner notes allowable subject matter in claims 28-31 and 33. Applicants respectfully submit that, in light of the preceding amendments and following remarks, the remaining claims are also allowable.

Declaration Errors

The Examiner notes an incorrect date in the priority document cited in the Declaration filed in connection with this application. Applicants thank the Examiner for so noting and will execute and forward a corrected declaration in due course.

Claim Rejections – 35 U.S.C. § 112

Claims 1-23 and 25-33 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully submit that the above amendments address each of the Examiner's rejections for indefinite subject matter. Withdrawal of the rejection under § 112, ¶ 2 is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1-6, 8-10, 13 and 15-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Pat 6,694,830 to Hakes ("Hakes") in view of US Pat 6,731,100 to Hansen et al. ("Hansen"). Applicants respectfully traverse this rejection for the reasons detailed below.

With regard to claims 1 and 18, the Examiner states that Hansen teaches the illuminating, recording, and determining steps and apparatus for performing the same. Applicants respectfully submit that claims 1 and 18 have been amended to recite that the digital images are “recorded through a *magnification lens system*.” Hansen teaches only a transparent window exposing a milk sample to detection elements; Hansen does not teach any magnification or magnification lenses within its detection system. *See* Col. 3, ll. 48-57. Thus, Hansen does not teach the system as recited in claims 1 and 18 as amended.

Hakes does not teach or suggest, nor does the Examiner rely on Hakes for teaching or suggesting, the magnification lens system of the claims. Because Hakes, alone or in combination with Hanson, does not teach every element of claims 1 and 18 as amended, these references cannot anticipate or render obvious claims 1 and 18. Claims 2-6, 8-10, 13, 15-17, and 19-23 are allowable at least for depending from an allowable base claim. Withdrawal of the rejection under § 103(a) to claims 1-6, 8-10, 13 and 15-23 is respectfully requested.

Further, Applicants respectfully submit that Hansen and Hakes are not combinable under § 103 to render the current claims obvious. Claim 1 recites methods for “*on-line during milking*” including “*flowing* at least a portion of the milk *as obtained during said milking* of said milking animal *through* a measuring chamber,” which the Examiner applies Hakes for teaching. Hansen, which the Examiner combines with Hakes to teach the remaining elements of the claims, discloses that the illuminating, recording, and determining is preformed on a *sample separated from the on-line milk flow* and not flowed through a measuring chamber. The sample can even be dyed and diluted, further illustrating that Hansen’s method is not performed on-line during milking, but on a separate sample. *See* Col. 4, l. 48 – Col. 5, l. 5. Thus, the illuminating, recording, and determining of Hansen, on a separate sample, are not compatible with the on-line flow through measuring of claim 1 and Hakes.

Because Hansen and Hakes are not combinable under § 103(a) to teach each and every element of claims 1 and 18, Hansen and Hakes cannot render obvious claims 1 and 18. Claims 2-6, 8-10, 13, 15-17, and 19-23 are allowable at least for depending from an allowable base claim. Withdrawal of the rejection under § 103(a) to claims 1-6, 8-10, 13 and 15-23 is respectfully requested.

Claims 11, 12, 14, 25-27, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hakes in view of Hansen as applied above and further in view of US Pat 3,367,416 to Van Der Lely et al. ("Van Der Lely"). Applicants respectfully traverse this rejection for the reasons detailed below.

Van Der Lely does not cure, nor does the Examiner apply Van Der Lely for curing, the disclosure and non-combinability deficiencies of Hakes and Hansen discussed above with regard to claims 1 and 18. Because Hakes, even if properly combinable with Hansen and Van Der Lely, fails to teach or suggest each and every element of the claims, these references cannot anticipate or render obvious claims 1 and 18. Claims 11, 12, 14, 25-27, and 32 are allowable at least for depending from an allowable base claim. Withdrawal of the rejection to claims 11, 12, 14, 25-27, and 32 under § 103(a) is respectfully requested.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of claims 1-34 in connection with the present application is earnestly solicited.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a one (1) month extension of time for filing a reply to the outstanding Office Action and submit the required \$120.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By

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